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ADVANCEMENT OF WOMEN

Violence against women migrant workers

Report of the Secretary-General

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I. INTRODUCTION

1. In its resolution 49/165 of 7 December 1994, the General Assembly, expressing its continuing grave concern about violence and other serious abuses committed against women migrant workers by some of their employers in some host countries. It proposed a number of measures to address the issue and requested the Secretary-General to report to the Assembly at its fiftieth session on implementation of the resolution.

2. In resolution 49/165, the General Assembly recognized the obligations of sending countries to protect and promote interests of their citizens and the obligations of receiving countries to ensure the human rights of all persons within their boundaries, and specifically those of women migrant workers. The Assembly also called upon relevant intergovernmental bodies, specialized agencies and non-governmental organizations to conduct seminars and training programmes on human rights instruments, particularly those pertaining to violence and abuse against women migrant workers and take a wide range of concrete steps to increase awareness and correct these abuses. The Assembly particularly urged the Special Rapporteur of the Commission on Human Rights on violence against women to continue to include violence against women migrant workers among the urgent issues pertaining to her mandate. Finally, the Assembly called for the cooperation of law enforcement officials and trade unions, for legal measures to protect women migrant workers against unscrupulous recruitment practices, for seminars, training programmes, support services and rehabilitation programmes, for international conferences to include and consider this topic, for information to be supplied and recommendations to be made to United Nations bodies and to Governments and for the Secretary-General to report to the Assembly at its fiftieth session on the implementation of the resolution.

3. The current report indicates the steps that have been taken to implement the resolution, based on information available to the Secretariat and input received from organizations of the United Nations system.

II. SUMMARY OF THE PROBLEM

4. In the report of the Secretary-General presented to the General Assembly at its forty-ninth session (A/49/354) it was indicated that the problem of violence against women migrant workers had been increasing as part of a growth in international migration and a shift in its nature toward temporary migration for purposes of work. It noted that both the methods of recruitment of women migrant workers and the types of work that they performed made them vulnerable to violence. The report observed an increase in trafficking, an issue that is the subject of a separate report. It noted that a number of international instruments existed that could provide a legal and normative framework for dealing with the issue. At the same time, it observed that much migration was undocumented, removing migrants from national and international legal protection. It described measures being taken by both sending and receiving States and suggested possible conclusions.

5. The wider issue of migration was raised at the forty-ninth session in the context of the deliberations on the report of the International Conference on Population and Development. In accordance with General Assembly resolution 49/127 of 19 December 1994 on international migration and development, the Secretary-General presented a report to the Economic and Social Council at its substantive session of 1995 on international migration and development. 1/ That report described migration trends, including growing restrictions on labour migration in industrialized countries and a consequent increase in undocumented migration.

6. The issue of violence against women migrant workers has to be seen against that backdrop. This phenomenon affects legal women migrants who, because of the circumstances of their employment and their expatriate status, become vulnerable to violence. It also affects, in unknown proportions, undocumented women migrants, who become particularly vulnerable largely because of their lack of legal status.

7. The dimensions of the problem were presented in some detail by the Special Rapporteur on violence against women, in her preliminary report submitted in accordance with Commission on Human Rights resolution 1994/45. 2/ In that report, she noted that poverty and the desire for economic betterment were the motivation for most women migrant workers who take jobs in receiving countries that others do not want. Unskilled workers, especially in domestic service, experience greater and different kinds of violence than other women. Their isolation, difficulties with a foreign language and generally illegal status increase their vulnerability to violence. Forms of violence range from inhumane working conditions, such as long working hours, no days off and non-payment of wages, to starvation, beatings and rape. Extreme underreporting of cases, lack of investigation of reported cases and continuation of abuse by police make accurate information about violence extremely difficult to obtain.

8. The Special Rapporteur noted that countries have undertaken a variety of measures to address the problem. Sending countries have unsuccessfully tried to restrict migration. Receiving countries have generally had little interest in regulating the working conditions of low paying, undesirable jobs and have not been successful at inducing migrants to become legal. The tactic of punishing migrants is unfair to the women who are already being exploited or abused. Some sending countries have tried to create more jobs and better housing to discourage migration, to educate potential migrants and to regulate recruitment agencies. These efforts are considered promising.

9. The Special Rapporteur further noted that international instruments should be used to reinforce the duty of sending countries to apprise citizens of their rights and of receiving countries to ensure protection for the human rights of all people within its borders. Specific measures include the regulation of recruitment agencies; legal, social and educational outreach to migrant women; trained female police officers and protection from male officers; training for embassy personnel; enforcement of national labour standards for all workers that conform to international guidelines; better enforcement of existing laws; involvement of trade unions; and implementation of relevant United Nations resolutions and reporting mandates.

10. The Special Rapporteur concluded that migration cannot be stopped or prohibited and efforts should be directed toward protection for women migrant workers.

11. The available data on violence against migrant domestic workers were reviewed for The World's Women 1995: Trends and Statistics 3/ and are summarized in the section entitled "Violence against women".

III. MEASURES TAKEN

A. National measures

12. In its resolution 49/165, the General Assembly invited States concerned, specifically the sending and receiving States of women migrant workers, to conduct regular consultations for the purpose of identifying problem areas in promoting and protecting the rights of women migrant workers and in ensuring health and social services for them, adopting specific measures to address those problems, setting up, as necessary, appropriate mechanisms to implement those measures and, in general, creating conditions that foster greater harmony and tolerance between women migrant workers and the rest of the society in which they reside. The Assembly also called upon the countries concerned to take appropriate measures to ensure that law enforcement officials assist in guaranteeing the full protection of the rights of women migrant workers, consistent with the international obligations of Member States. It urged both sending and host countries to help ensure that women migrant workers are protected from unscrupulous recruitment practices, if necessary by the adoption of legal measures. It invited all States to adopt, with the support of relevant non-governmental organizations, appropriate measures to provide support services to women migrant workers who have become traumatized as a consequence of violation of their rights.

13. No information has been received by the Secretariat on consultations that may have been undertaken since the resolution was adopted, nor on other measures. It should be noted that there is no formal identification of States as sending or receiving States. In the report of the Secretary-General to the forty-ninth session, the Philippines and Thailand provided information as sending States and Mauritius and the United Kingdom of Great Britain and Northern Ireland provided information as receiving States. It was also indicated in the report that temporary migrant workers had been sent in significant numbers from Indonesia, Malaysia, the Philippines, Sri Lanka and Thailand. Receiving countries noted included Kuwait and Saudi Arabia.

14. In resolution 49/165, the General Assembly also invited trade unions to support the realization of the rights of women migrant workers by assisting them in organizing themselves so as to enable them better to assert their rights. The Secretariat has received no information on this issue.

B. International legal instruments

15. In its resolution 49/165, the General Assembly encouraged Member States to consider signing and ratifying or acceding to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. As at 16 July 1995, five States (Egypt, Colombia, Morocco, the Philippines and Seychelles) had ratified or acceded to the Convention and two additional States had signed the Convention without yet ratifying (Chile and Mexico). The Convention will enter into force when at least 20 States have ratified it. In this connection, the Assembly, at its forty-ninth session, adopted resolution 49/175 of 23 December 1994, in which it, inter alia, called upon all Member States to consider signing and ratifying or acceding to the Convention as a matter of priority. A similar resolution was adopted by the Commission on Human Rights at its fifty-first session (resolution 1995/21 of 24 February 1995).

16. In this connection, the Commission had before it a report of the Secretary-General on the status of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. 4/

C. International action

17. In its resolution 49/165, the General Assembly called upon relevant bodies and specialized agencies of the United Nations system, intergovernmental organizations and non-governmental organizations to inform the Secretary-General of the extent of the problem and to recommend further measures to implement the purposes of the resolution. It also requested treaty-monitoring bodies and called up non-governmental organizations to include, where appropriate, the situation of women migrant workers in their deliberations and findings and to supply relevant information to United Nations bodies and Governments. It called upon relevant intergovernmental bodies, specialized agencies and non-governmental organizations concerned, in cooperation with both the sending and the host countries, to conduct seminars and training programmes on human rights instruments, particularly those pertaining to migrant workers. It also invited the Special Rapporteur of the Commission on Human Rights on violence against women to continue to include among the urgent issues pertaining to her mandate the violence perpetrated against women migrant workers.

18. At its thirty-ninth session, the Commission on the Status of Women again considered the topic of violence against women migrant workers based on the report of the Secretary General to the General Assembly. On the basis of its consideration, the Commission adopted resolution 39/7 of 31 March 1995, entitled "Violence against women migrant workers". While containing many of the provisions found in General Assembly resolution 49/165, it also called upon States Members of the United Nations to adopt measures for the effective implementation of the Declaration on the Elimination of Violence against Women, including applying them to women migrant workers. It urged Member States to adopt and implement measures to eradicate all forms of racism and xenophobia and promote education on human rights understanding and acceptance of cultural diversity. It called upon States to explore the possibility of adopting

measures to prevent the victimization of women migrant workers by sexual traffickers and to penalize those traffickers, including ratifying the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others. It invited relevant United Nations functional bodies and specialized agencies, in particular the International Labour Organization, intergovernmental organizations and non-governmental organizations, to monitor the situation of women migrant workers and to submit reports thereon through normal channels. It recommended that the Committee on the Elimination of All Forms of Discrimination against Women, in its consideration of States Parties' reports, inquire into the status of migrant women workers and propose measures for their protection. It recommended to the Centre for Human Rights that it include the promotion and protection of the human rights of women migrant workers in its programme of work relative to its advisory training and information services and submit to the Assembly, through the Commission on Human Rights and the Economic and Social Council, its reports thereon. It also recommended to the Commission on Human Rights that it make the rights of women migrant workers one of its priority concerns. It requested the Secretary-General to ensure the development of concrete indicators as a basis for future action to determine the situation of women migrant workers in sending and receiving countries and to consider establishing an expert group to submit recommendations for improving coordination of the various efforts of the United Nations on behalf of migrant workers, for submission to the Assembly at its fiftieth session.

19. The issue of women migrant workers was also discussed by the Working Group on Contemporary Forms of Slavery of the Subcommission on Prevention of Discrimination and Protection of Minorities of the Commission on Human Rights at its twentieth session. At the 7th meeting, a few members of the Working Group expressed their concern for the fate of migrant workers. They noted that in several cases national laws were not in conformity with the International Bill on Human Rights. They also invited countries to ratify the International Convention on the Rights of All Migrant Workers and members of Their Families and to adopt and guarantee the implementation of non-racist laws. At the same meeting, the observer for Anti-Slavery International drew the attention of the Working Group to a book entitled Britain's Secret Slaves - An Investigation into the Plight of Overseas Domestic Workers.

20. The Working Group adopted recommendation 8 on migrant workers in which it recalled the adoption by the General Assembly of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families in its resolution 45/158 of 18 December 1990. The Working Group noted that in recent years many countries have been running their development programmes, as well as maintaining day-to-day essential services, with the help of a foreign migrant labour force.

21. The Working Group also noted that these workers are frequently subject to discriminatory rules and regulations which undermine human dignity, including forcing them to live separately from their spouse and their minor children, sometimes for extended periods, and strongly condemned practices of unequal treatment of migrant workers and the denial to them of minimum human consideration and dignity.

22. The Working Group recommended that non-governmental organizations give attention to the grave problems affecting migrant workers and provide information to the Working Group in this regard. It also recommended to the Subcommission on Prevention of Discrimination and Protection of Minorities that it examine this issue at its forty-seventh session.

23. The Special Rapporteur on violence against women considered violence against women migrant workers in her preliminary report, as noted above.

24. With regard to the recommendation of the Commission on the Status of Women that the Secretary-General consider the establishment of an expert group, the short time between the adoption of the resolution and the fiftieth session of the General Assembly, given also the preparations for the Fourth World Conference on Women, has made it impossible to organize the requested expert group meeting.

25. The Commission on Human Rights, at its fifty-first session, adopted resolution 1995/20 of 24 February 1995, entitled "Violence against women migrant workers". In that resolution the Commission expressed its grave concern at the plight of women migrant workers who become victims of physical, mental and sexual harassment and abuse. The Commission also called upon States concerned, specifically the sending and receiving States of women migrant workers, to conduct regular consultations for the purpose of identifying problem areas in promoting and protecting the rights of women migrant workers and in ensuring health and social services for them, adopting specific measures to address those problems, setting up, as necessary, appropriate mechanisms to implement those measures and, in general, creating conditions that foster greater harmony and tolerance between women migrant workers and the rest of the society in which they reside.

26. Increased cooperation and involvement of relevant United Nations bodies and specialized agencies, together with sending and receiving countries concerned, was also called for by the Commission on Human Rights. Furthermore, the Special Rapporteur of the Commission on Human Rights on violence against women was invited to continue to include among the urgent issues pertaining to her mandate the violence perpetrated against women migrant workers and to consider including her findings in her report to the Commission on Human Rights at its fifty-second session.

27. In this regard, and on the basis of allegations received from various sources, the Special Rapporteur on violence against women intends to carry out a fact-finding mission to a receiving country in the latter half of 1996, to permit an in-depth analysis of the problem at hand.

D. International conferences

28. In its resolution 49/165, the General Assembly invited the World Summit for Social Development, the Fourth World Conference on Women and the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders to consider including in their respective programmes of action the subject of the traffic in women and girls, as well as youth. The extent to which this has been

done is reported in detail in the report of the Secretary-General on traffic in women and girls (A/50/369).

Notes

1/ E/1995/69.

2/ E/CN.4/1995/42.

3/ United Nations publication, Sales No. E.95.XVII.2.

4/ E/CN.4/1995/73.